

How to Use the IT Staff Augmentation Lower Overhead Contracts

Contract #: ITS43StaffAugCat2a and ITS43StaffAugCat2b
Contract Duration: 01/01/2011 to 06/30/2013
MMARS #: ITS43StaffAugCat2a* and ITS43StaffAugCat2b*
Options to renew: No options available
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Last change date: 12/01/2012

Contract Summary

These Contracts are for temporary IT staff (“Resources”) where the Commonwealth Agency has located and recruited the Resource they wish to retain. Category 2a is used when the resource has no employer. The Category 2a vendor will hire the Resource as their employee. Category 2b is used when the Resource already has an employer. In that case, the Category 2b vendor will subcontract with the Resource’s employer. All Resources retained under this contract must have an employer.

If your Agency has not located a Resource, use ITS43StaffAugCat1, the “full service” Contract. The Category1 vendors will review your Agency’s requirements for a Resource, and submit resumes for your review and selection.

Please see “[Locating Documents on Comm-PASS](#)” to find the documents referenced in this Guide.

Benefits and Cost Savings

- Less expensive because the Commonwealth Agency has done the work of locating and recruiting a Resource

Who Can Use This Contract?

Applicable Procurement Law: MGL c. 7, § 22; c. 30, § 51, § 52; 801 CMR 21.00

Eligible Entities:

01. Cities, towns, districts, counties and other political subdivisions
02. Executive, Legislative and Judicial Branches, including all Departments and elected offices therein;
03. Independent public authorities, commissions and quasi-public agencies
04. Local public libraries, public school districts and charter schools;
05. Public Hospitals, owned by the Commonwealth;
06. Public institutions of high education
07. Public purchasing cooperatives;
08. Non-profit, UFR-certified organizations that are doing business with the Commonwealth;
09. Other states and territories with no prior approval by the State Purchasing Agent required; and

10. Other entities when designated in writing by the State Purchasing Agent.

Pricing and Acquisition Methods

Services will be obtained on a time and materials basis only. Travel may be paid only with your prior written consent.

A “Rate Card,” updated periodically, determines the maximum rates that Commonwealth Agencies can pay for particular job titles. Rate Card 5 applies to Executive Department agencies. All other Commonwealth Agencies may use Rate Card 3.

If you cannot negotiate a rate within the Rate Card rates, you may ask Ellen Wright (ellen.wright@state.ma.us), the designee of the Commonwealth’s Chief Information Officer, for a variance from the Rate Card.

The “bill rate” (what your Agency pays the ITS43 Vendor) for Category 2a is equal to the Resource’s “pay rate” plus the ITS43 Vendor’s charges. For Category 2b, the bill rate is the rate paid to the Resource’s employer plus the ITS43 vendor’s charges (under Category 2b, you won’t necessarily know the Resource’s ultimate pay rate, because the ITS43 vendor is subcontracting with the Resource’s employer).

The usual practice is to negotiate a rate with the Resource and allow the Resource to choose the ITS43 Vendor they will work with, because the ITS43 Vendors’ practices differ (payment scheduling, insurance provisions, etc.). You can do this in one of two ways:

Negotiate a “pay rate” with the Resource

In this case, the bill rate to your Agency may be different depending on which ITS43 Vendor your Resource selects. Therefore you must be sure that if your Resource chooses the ITS43 vendor with the highest markup, the rate your Agency pays will be a) under the Rate Card maximum and b) within your budget. (Remember that for Category 2b, this is the pay rate to your Resource’s employer.)

Negotiate a “bill rate” with the Resource

This is the amount your Agency will pay regardless of which ITS43 vendor the Resource chooses. The Resource will have a higher pay rate if they choose the ITS43 vendor with the lowest markup.

Pay rate and bill rate calculations for Category 2a

Category 2a (ITS43 Vendor becomes the Resource’s employer)

Vendor	Markup (over pay rate)	Prompt Pay?
McInnis	12.8%	1% for payment in 10 days
Trigyn	14.9%	No

These rates are higher than for Category 2b because the “markup” includes all the Employer taxes and other charges that the ITS43 Vendor must pay, typically at least 11% and often higher.

To calculate Resource’s Pay Rate based on the Bill Rate:

$$\text{Pay Rate} = \text{Bill Rate} / (1 + \text{Markup})$$

To calculate Bill Rate to your Agency based on the Resource’s Pay Rate:

$$\text{Bill Rate} = \text{Pay Rate} * (1 + \text{Markup})$$

There is a spreadsheet on the “Forms & Terms” tab of Comm-PASS that does these calculations (see navigation instructions below).

Pay rate and bill rate calculations for Category 2b

Category 2b (ITS43 Vendor subcontract’s with the Resource’s employer)

Vendor	Hourly Markup (over pay rate)	Prompt Pay?
Ardent	\$0.50	No
McInnis	\$0.50	No
Trigyn	\$0.85	No

To calculate Pay Rate to Resource’s employer based on the Bill Rate:

$$\text{Pay Rate} = \text{Bill Rate} - (\text{Markup} + (\text{Bill Rate} * .01))$$

To calculate Bill Rate to your Agency based on the Pay Rate to the Resource’s employer:

$$\text{Bill Rate} = \text{Pay Rate} + \text{Markup} + ((\text{Pay Rate} + \text{Markup}) * .01)$$

There is a spreadsheet on the “Forms & Terms” tab of Comm-PASS that does these calculations (see navigation instructions below).

How to Use this Contract

There are four steps for obtaining IT Resources under this Contract:

1. Recruit candidate and negotiate rate (see above to negotiate a [bill rate](#) or [pay rate](#)).
2. Give your Resource contact information for the appropriate contract (2a if the Resource will be hired by the ITS43 vendor, 2b if the ITS43 vendor will subcontract with the Resource’s employer).
3. Sign an agreement with the ITS43 vendor. A Statement of Work (SOW) template is posted on Comm-PASS. You may use your own Agency’s agreement, but be sure to cover all elements of the SOW template.
4. “On-board” the Resource.

“On Board” the Resource

I-9 Form: You must request copies of the I-9 (Employment Eligibility Verification) form from the ITS43 Vendor prior to the Resource’s first day of work. You must review the area of the form on the right hand side of the page, about one third of the way down,

beginning: “I attest, under penalty of perjury...” If the box for “An alien authorized to work...” is checked, be sure that the authorization is current based on the expiration date.

Resources with H1-B Visas: The Department of Labor requires (20 CFR 655.734) the filing of a labor condition application (LCA) and a posting of a notice of the LCA filing for Resources with H1-B visas. The requirement can be met by Commonwealth Agencies by posting a copy of the notice, which the ITS43 Vendor will supply, at the Resource’s work site, in two conspicuous locations, for a period of ten days.

Representations by Resources Form: This form, found on Comm-PASS under the “Forms & Terms” tab, must be signed by all Resources on or before their first day of work.

ITS43 Employee Certification Form: The Resource must bring this form to work on his/her first day (if not submitted previously). The form must be kept in the procurement file. A copy of the form is located under the Forms & Terms tab of the contract.

The “Resource Employer” will be the same as the ITS43 Vendor for Category 2a, but will be a difference company for Category 2b. The answers to Questions 1, 2, 4, 5 and 7 must be “Yes.” If the answer to Question 3 is “No,” the form must indicate that the Vendor qualifies for an exemption, or a copy of a completed [HIRD](#) form (the Health Insurance Responsibility Disclosure form that employers must have on file if the employee has declined to participate in the employer’s sponsored health insurance plan or pre-tax purchasing program) must be attached. Re Question 6, if the Resource Employer is a single member LLC, the LLC must be at least six months old as of the date the Resource reports for work, and the Resource must have provided services outside of a Statewide Staff Augmentation Contract.

During the Resource’s Engagement

Request copies of W-2s for Resources working at your Agency, on or about May 1 of each year, and keep it in the procurement file.

Additional Caveats and Benefits

- Under Category 2a (ITS43 Vendor is Resource’s employer), **you may offer the Resource a position with your Agency** as a regular employee or a “Contract Employee,” at any time. However, you **may not** encourage the Resource to leave their ITS43 employer and go to work for another company, such as a different “Low Overhead” vendor or other third party.
- Under Category 2b (ITS43 Vendor subcontracts with the Resource’s employer), **you may offer the Resource a position with your Agency** as a regular employee or a “Contract Employee” after they have been working continuously for your Agency for six months or more, provided that they are not here on an H1B visa. As above, you **may not** encourage the Resource to leave their ITS43 employer and go to work for another company.
- Vendors are **not obliged to conduct background checks** under the Lower Overhead contracts. If background checks are required, your Agency must conduct them.

- Under Category 2b, you have the right to request and receive a **copy of the subcontract**.
- **Do not** post a job on Monster.com or other job boards until you have given the ITS43 Full Service Vendors an opportunity to find a candidate for you. Above all, do not post the position elsewhere while it is posted for responses from the ITS43 vendors.

Additional Information

Continuing a Resource's Engagement after the end of ITS43

Before the end of the Contract (7/1/2013), you may extend the term of your Agreement for a Resource or group of Resources for up to three years from the date you sign the extension. After ITS43 ends, the end date of your Agreement cannot be extended further, and the bill rate cannot be increased. As always, you may end the engagement before the termination date of your Agreement. No new Agreements may be executed after ITS43 has expired.

Contract termination or suspension of a Vendor from new business under ITS43 does not automatically terminate any Agreements you have in place with that Vendor.

Locating Documents on Comm-PASS

All of the following documents are found on the "Forms & Terms" page of the Contract on Comm-PASS:

- Rate Cards 3 and 5
- Representations by Resources
- ITS43 Employee Certification Form
- Rate calculation spreadsheet
- Agreement Template
- ITS43 RFR

To locate these documents:

1. Go to www.comm-pass.com
2. Select "Search for a Contract" (link near bottom left of page)
3. Check the "For Statewide Contract" box
4. Enter ITS43StaffAugCat2 as the "Document Number" and select "Search"
5. Select the new link that appears toward the top of the page: "There are 2 Contracts(s) found that match your search criteria."
6. Select the eyeglasses icon under "View" for one of the two documents (the same information is posted on the "Forms & Terms" tab for both contracts)
7. Select the "Forms & Terms" tab

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Vendors

Vendor	Contact	Telephone	Email	Contracts
Ardent	Vas Appalaneni	937-312-1345	mabids@ardentinc.com	2b only
McInnis	Bob McInnis	781-659-4922	rm@mcinnisconsulting.com	2a and 2b
Trigyn	Thomas Gordon	732-777-4608	Tom.Gordon@trigyn.com	2a and 2b